

**REMARKS**

**Summary of the Office Action**

Claims 1, 3, 4, 6 and 7 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Ko et al. (U.S. Patent No. 6,724,705) (hereinafter "Ko").

Claim 2 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Ko in view of Takeshita (U.S. Patent No. 6,556,524) (hereinafter "Takeshita")

Claim 5 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Ko in view of Yonemitsu et al. (U.S. Patent No. 5,592,450) ("Yonemitsu").

Claims 8-13 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Ko in view of Weiler et al. (U.S. Patent No. 6,725,205) (hereinafter "Weiler").

Method claim 11 is allegedly "drawn to the method of using the corresponding apparatus claimed in claim 8." Therefore, method claim 11 allegedly "corresponds to apparatus claim 8 and is rejected for the same reasons of anticipation as used above."

Claims 12 and 13 allegedly "have limitations similar to those treated in the above rejection, and are met by the reference as discussed above."

**Summary of the Response to the Office Action**

Applicants have amended claims 1, 8 and 11-13 to differently describe embodiments of the disclosure of the instant application's specification. Accordingly, claims 1-13 remain pending for consideration.

**Rejections under 35 U.S.C. §§ 102(e) and 103(a) and Statement of the Substance of****Examiner Interview**

Claims 1, 3, 4, 6 and 7 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Ko. Claim 2 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Ko in view of Takeshita. Claim 5 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Ko in view of Yonemitsu. Claims 8-13 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Ko in view of Weiler. Method claim 11 is allegedly “drawn to the method of using the corresponding apparatus claimed in claim 8.” Therefore, method claim 11 allegedly “corresponds to apparatus claim 8 and is rejected for the same reasons of anticipation as used above.” Claims 12 and 13 allegedly “have limitations similar to those treated in the above rejection, and are met by the reference as discussed above.”

Applicants have amended each of independent claims 1, 8 and 11-13 to differently describe embodiments of the disclosure of the instant application’s specification in accordance with an approach described in a telephone discussion with Examiner Kim K. Chu on December 13, 2006, as summarized in detail below. To the extent that these rejections might be deemed to still apply to the claims as newly-amended, they are respectfully traversed for at least the following reasons.

Examiner Kim K. Chu is thanked for the courtesies extended to Applicants’ undersigned representative in a telephone interview conducted on December 13, 2006. In this interview, Applicants’ undersigned representative explained particular technical distinctions regarding how the applied Ko reference does not anticipate the features of independent claim 1 of the instant application.

For example, Applicants undersigned representative explained how there are many types of recording medium recording apparatuses today and each of these recording apparatuses can differ from the others with respect to their specific recording parameters. In the instant application's disclosure, when a recording medium, such as a disc, for example, is mounted in a recording apparatus, the appropriate identification information is selected/detected based on the type of recording apparatus that is selected/detected. Then, the optimum recording parameter information that is appropriate for the selected/detected apparatus is applied during the recording processing based on the selected/detected identification information.

The Examiner understood the distinctions, but he expressed his belief that particular features of independent claim 1 should be amended in order to clearly describe the distinctions. In particular, the Examiner believed that "identification information" as currently described in the claim could be interpreted as being met by disc identification information. Applicants' undersigned representative traversed such an interpretation by explaining that the claim clearly describes "identification information *for identifying the information recording apparatus.*"

The Examiner then expressed his position that the identification of a corresponding recording apparatus would be clearly understood from disc identification information. In addition, the Examiner asserted that the appropriate recording parameter information for one type of recording apparatus, or drive, is stored on any disc. The Examiner asserted that for a disc of the DVD format, for example, recording parameter information, such as recording speed, for example, is stored in the header of the disc of the DVD format.

Applicants' undersigned representative explained that claim 1 is currently rejected under 35 U.S.C. § 102(e) as being anticipated by Ko and Ko includes no teaching of such a "recording

speed” to any extent. Applicants’ undersigned representative also explained that instead the “physical format information” described at col. 10, lines 37-42 of Ko is information relating to an optical disc standard, or characteristics of a particular disc, but not relating to parameter information used for optimally recording onto the disc, as specifically described in the claim.

The Examiner responded that a recording parameter, such as recording speed, for example, is inherently disclosed by Ko because it is well understood that such recording speed information is stored in the header portion of the disc.

Despite the foregoing issues, the Examiner reached agreement with Applicants’ undersigned representative’s explanation that the disclosure of the instant application includes significant features that differ from the applied art at least as follows. For example, the Examiner agreed with Applicants’ undersigned representative’s explanation that, in accordance with the disclosure of the instant application, a recording medium stores drive identification information for a plurality of different types of recording apparatuses. The appropriate identification information is then identified and selected based on the recording apparatus currently being utilized to record onto the recording medium.

Even further, Applicants’ undersigned representative explained that recording parameter information, which specifies settings for recording onto the recording medium, is also stored on the recording medium for each respective drive identification information. Applicants’ undersigned representative referred to Fig. 3, for example, in this regard.

The Examiner agreed that if claim 1 was amended, as implemented by the instant Amendment document, then the currently applied Ko reference would be overcome. The

Examiner noted that he would need to conduct a further search, however, before he could agree that this amended claim would describe allowable subject matter.

Accordingly, Applicants have amended independent claim 1 of the instant application to describe that information is to be recorded by one of a plurality of different information recording apparatuses, and that wherein at the time of manufacturing the recording medium, there are recorded in advance at least: identification information for identifying one of the plurality of different information recording apparatuses, the identified information recording apparatus for recording the information onto the recording medium.

Similar features have also been added to the remaining independent claims 8 and 11-13. Accordingly, Applicants respectfully submit that newly-amended independent claims 8 and 11-13 are also in condition for allowance for similar reasons as set forth above with regard to newly-amended independent claim 1.

Applicants respectfully submit that the additionally applied reference to Weiler, applied against claims 8-13, does not cure at least the above-discussed deficiencies of Ko.

Accordingly, Applicants respectfully assert that the rejections under 35 U.S.C. §§ 102(e) and 103(a) should be withdrawn because neither Ko nor Weiler, whether taken singly or combined, teach or suggest each feature of independent claims 1, 8 and 11-13, as amended. As pointed out in MPEP § 2131, "[t]o anticipate a claim, the reference must teach every element of the claim." Thus, "[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. Verdegaal Bros. v. Union Oil Co. Of California, 2 USPQ 2d 1051, 1053 (Fed. Cir. 1987)." Similarly,

MPEP § 2143.03 instructs that “[t]o establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. In re Royka, 409 F.2d 981, 180 USPQ 580 (CCPA 1974).” Furthermore, Applicant respectfully asserts that dependent claims 2-7 and 9-10 are allowable at least because of their dependence from claim 1 or 8, and the reasons set forth above. Moreover, Applicant respectfully submits that the additionally applied reference to Takeshita, with respect to claim 2, and the additionally applied reference to Yonemitsu, with respect to claim 5, do not cure the deficiencies discussed above with regard to Ko.

### **CONCLUSION**

In view of the foregoing, Applicants submit that the pending claims are in condition for allowance, and respectfully request reconsideration and timely allowance of the pending claims. Should the Examiner feel that there are any issues outstanding after consideration of this response, the Examiner is invited to contact Applicants’ undersigned representative to expedite prosecution. A favorable action is awaited.

**EXCEPT** for issue fees payable under 37 C.F.R. § 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. § 1.16 and 1.17 which may be required, including

any required extension of time fees, or credit any overpayment to Deposit Account No. 50-0573.

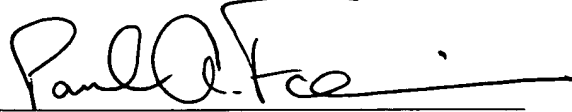
This paragraph is intended to be a **CONSTRUCTIVE PETITION FOR EXTENSION OF TIME** in accordance with 37 C.F.R. § 1.136(a)(3).

Respectfully submitted,

**DRINKER BIDDLE & REATH LLP**

Dated: December 18, 2006

By:

A handwritten signature in black ink, appearing to read "Paul A. Fournier", written over a horizontal line.

Paul A. Fournier

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